

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PRIMEFLIGHT AVIATION SERVICES, INC.

and

Case 12-CA-155609

SAMUEL DIAZ

ORDER¹

The petitions to revoke subpoenas A-1-PCOC6H and A-1-PCOCCB filed by Southwest Airlines, Inc. are denied. The subpoenas seek information relevant to the matters under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.² See generally, *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).³

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Contrary to the Petitioner's argument, the Board has full authority to issue an investigative subpoena to a non-party. *Offshore Mariners United*, 338 NLRB 745, 745 (2002) (rejecting argument that a non-party is outside the scope of the Board's subpoena authority); *NLRB v. The Bakersfield Californian*, 128 F.3d 1339, 1342 (9th Cir. 1997) (NLRB has authority to issue investigatory subpoenas to nonparties in unfair labor practice proceedings); *Link v. NLRB*, 330 F.2d 437, 439-440 (4th Cir. 1964) (same); *NLRB v. Lewis*, 310 F.2d 364, 366 (7th Cir. 1962). See also NLRB Casehandling Manual (Part One) Unfair Labor Practice Proceedings Sec. 11770.2.

³ Member Miscimarra agrees that the petitions to revoke should be denied since Petitioner has failed to raise any meritorious grounds for revocation. Consistent with his position in *Christus St. Vincent Regional Medical Center*, 28-CA-149798 (Aug. 24, 2015), *CCR Fire Protection, LLC*, 15-CA-134356 (Feb. 23, 2015), and *International Union of Elevator Constructors (Otis Elevator)*, 29-CB-084077 (Aug. 29, 2014), Member Miscimarra notes that the instant subpoenas ad testificandum, which only identify a case name and number, are deficient because they fail to state with sufficient

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MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

particularity the evidence being sought. He concurs, however, in the denial of the petitions to revoke in the absence of any objection to the subpoenas on this basis.